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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/787,283

**Applicant(s)**

TEDESCO ET AL.

**Examiner**

PETER COUGHLAN

**Art Unit**

2129

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18 and 61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18 and 61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/26/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **Detailed Action**

1. This office action is in response to an AMENDMENT entered September 28, 2008 for the patent application 10/787283 filed on February 26, 2004.
2. All previous office actions are fully incorporated into this Non-Final Office Action by reference.

### ***Status of Claims***

3. Claims 18 and 61 are pending.

### ***Specification Objections***

4. Within the specification the use of 'carrier wave' as a medium which is used as a 'computer readable medium.' This is non-statutory under 35 U.S.C §101.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 18 and 61 are rejected under 35 U.S.C. 101 for nonstatutory subject matter. The computer system must set forth a practical application of that § 101 judicial exception to produce a real-world result. Benson, 409 U.S. at 71-72, 175 USPQ at 676-77. The invention is ineligible because it has not been limited to a substantial practical application. A method for monitoring an image of an area is not a practical application. The result has to be a practical application.

In determining whether the claim is for a "practical application," the focus is not on whether the steps taken to achieve a particular result are useful, tangible and concrete, but rather that the final result achieved by the claimed invention is "useful, tangible and concrete." If the claim is directed to a practical application of the § 101 judicial exception producing a result tied to the physical world that does not preempt the judicial exception, then the claim meets the statutory requirement of 35 U.S.C. § 101.

A method which describes anticipates receiving an image from an image capture device in which the image capture device generates an image of an area in which human activity is desired to be substantially nonexistent determining information related to the area; receiving a request for a first user to monitor; receiving a user identifier; verifying that the user identifier corresponds to the first user providing the first user with the image; receiving a response to the image by the first user, in which the response is one of: an indication that a human is present in the image an indication that no human is present in the image an indication of uncertainty whether a human is present in the image providing

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additional users with the image; receiving responses to the image by the additional users evaluating the received responses determining, based on the information related to the area, an entity to notify and notifying the entity has no practical real world application

The invention must be for a practical application and either:

- 1) specify transforming (physical thing) or
- 2) have the FINAL RESULT (not the steps) achieve or produce a useful (specific, substantial, AND credible), concrete (substantially repeatable/ non-unpredictable), AND tangible (real world/ non-abstract) result.

A claim that is so broad that it reads on both statutory and non-statutory subject matter, must be amended.

A claim that recites a method which describes the monitoring a image of an area is not a practical application. There must be a result that is a practical application.

In the previous Office Action, the Examiner illustrated the problem with using transmission media as computer readable medium is not allowable under 35 U.S.C. §101.

Examiner's Comment: Although, the terms medium or memory are not specifically mentioned within the claims, the Examiner states possible rejection under 35 U.S.C. §101 if they were. Paragraph 0048 states, 'Computer readable medium as used herein refers to any medium that participates in providing instructions to a processor for execution. Such a medium may take the forms, including but not limited to, non-volatile media, volatile media, and transmission media.' 'Transmission media may carry acoustic or light waves, such as those generated during radio frequency (RF) and infrared (IR) data communications.'

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Transmission media can not be equated as computer readable medium under 35 U.S.C. §101.

The Examiner gave the Applicant the opportunity to correct the specification regarding this topic. The Applicant did not address this issue. Paragraph 0048 state the use of 'carrier wave' as a medium which is used as a 'computer readable medium.' This is non-statutory under 35 U.S.C §101.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The phrase "human activity is desired to be substantially nonexistent "in claim 18 is a relative term which renders the claim indefinite. The phrase "human activity is desired to be substantially nonexistent " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. This threshold of 'substantially' needs to clearly defined. The Examiner views a single terrorist and harmful as 3 terrorist. Yet it could be stated that 1 is substantially' less than 3.

This claim needs to be amended or withdrawn from consideration.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dubats, in view of Matsumoto, in view of Abrams. (U. S. Patent 5559496, referred to as **Dubats**; U. S. Patent 4245245, referred to as **Matsumoto**; U. S. Patent Publication 20020138847, referred to as **Abrams**)

**Claim 18**

Dubats anticipates receiving an image from an image capture device. (**Dubats**, C1:5-22; 'Receiving an image' of applicant is disclosed by the function of a 'camera' of Dubats.) in which the image capture device generates an image of an area in which human activity is desired to be substantially nonexistent (**Dubats**, abstract, Figure 1; 'Area in which human activity is desired to be substantially nonexistent' of applicant is disclosed by detecting 'intrusion of nontransparent objects' of Dubats.); determining information related to the area (**Dubats**, abstract; 'Determining information' of applicant is equivalent to

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'estimates approximate size, speed and direction characteristics' of Dubats.); receiving a request for a first user to monitor (**Dubats**, C8:36-43; 'Request for a first user to monitor' of applicant is equivalent to 'operator selects instantaneous reporting' of Dubats.); receiving a user identifier (**Dubats**, C8:45-54; 'User identifier' of applicant is equivalent to 'a password ID to proceed with RPS operation' of Dubats.); verifying that the user identifier corresponds to the first user (**Dubats**, C8:45-54; 'Verifying that a user identifier' of applicant is equivalent to 'user identification software routine' of Dubats.) providing the first user with the image. (**Dubats**, C8:45-65; 'providing an image' of applicant is equivalent to 'monitor existing remote stations for activity on a real time basis' of Dubats.)

Dubats does not teach receiving a response to the image by the first user, in which the response is one of: an indication that a human is present in the image an indication that no human is present in the image; an indication of uncertainty whether a human is present in the image.

Matsumoto teaches receiving a response to the image by the first user, in which the response is one of: an indication that a human is present in the image an indication that no human is present in the image; an indication of uncertainty whether a human is present in the image. (**NOTE-Dubats**, Figure 1; 'Human' of applicant is depicted by silhouette of soldiers of Dubats.) (**Matsumoto**, C20:45-64; 'Human is present' of applicant would be a response of 'yes' of Matsumoto. 'No human is present' of applicant would be a response of 'no' of Matsumoto. 'Uncertainty whether a human is present' of applicant would be a response of 'maybe' of Matsumoto.) It would have been obvious to a person having ordinary



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skill in the art at the time of applicant's invention to modify the teachings of Dubats by offering three choices as evaluations as taught by Matsumoto to have receiving a response to the image by the first user, in which the response is one of: an indication that a human is present in the image an indication that no human is present in the image; an indication of uncertainty whether a human is present in the image.

For the purpose of being able to using the response for future evaluation by combining numerous responses with an evaluation algorithm.

Dubats and Matsumoto do not teach providing additional users with the image; receiving responses to the image by the additional users.

Abrams teaches providing additional users with the image (**Abrams**, ¶0014; 'Plurality of remote viewers' of applicant is disclosed by 'multiple user' of Abrams.); receiving responses to the image by the additional users. (**Abrams**, ¶0014; It is inherent that a user who provides surveillance would respond if the situation dictates.) It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the combined teachings of Dubats and Matsumoto by using multiple users as taught by Abrams to providing additional users with the image; receiving responses to the image by the additional users.

For the purpose of avoiding the high error cost of a single user by using redundant users.

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Dubats teaches evaluating the received responses determining, based on the information related to the area, an entity to notify, and notifying the entity.

(**Dubats**, C9:26-46; 'Evaluating the received responses' of applicant is achieved by the 'object designation expert system' of Dubats. 'Determination' of applicant is disclosed by the 'confidence level' of Dubats. 'Notifying the entity' of applicant is illustrated by the generation of 'screen report' of Dubats.)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of **Dubats**, **Matsumoto**, **Abrams**, in view of **Capitant**. (U. S. Patent 5185666, referred to as **Capitant**)

Claim 61

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Dubats teaches receiving an image of an object from an image capture device situated in a particular area. (**Dubats**, C1:5-22; 'Receiving an image' of applicant is disclosed by the function of a 'camera' of Dubats.)

Dubats and Matsumoto do not teach routing the image of the object to a plurality of remote viewers;

Abrams teaches routing the image of the object to a plurality of remote viewers. (**Abrams**, ¶0014; 'Plurality of remote viewers' of applicant is disclosed by 'multiple user' of Abrams.) It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the combined teachings of Dubats and Matsumoto by using multiple viewers as taught by Abrams to routing the image of the object to a plurality of remote viewers.

For the purpose of having multiple evaluations of an image.

Dubats teaches requesting that each remote viewer of the plurality of remote viewers provide an indication (**Dubats**, C9:19-46; 'Receiving' an indication matches a reference image of applicant is illustrated by the function of the object designation expert system' of Dubats.)

Dubats, Matsumoto, Abrams do not teach of whether the image of the object matches a reference image of a particular object.

Capitant teaches of whether the image of the object matches a reference image of a particular object. (**Capitant**, 2:13-20; 'Reference image ... as a static portion of the interface' of applicant is disclosed by 'split screen display for comparing a digitized film frame with a reference frame' of Capitant.) It would

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have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the combined teachings of Dubats, Matsumoto, and Abrams by using split screen images, one with a reference image as taught by Applicant to have the image of the object matches a reference image of a particular object.

For the purpose of comparing an image within a database to a current image.

Dubats teaches receiving, from each remote viewer of the plurality of remote viewers, the indication of whether the image of the object matches the reference image of the particular object. (**Dubats**, C9:26-46; 'Indication of whether the image of the object matches the reference image' of applicant is disclosed by the 'confidence level' of Dubats.)

### ***Response to Arguments***

5. Applicant's arguments filed on September 28, 2008 for claims 18, 61 have been fully considered but are not persuasive.

6. In reference to the Applicant's argument:

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## The Examiner's Rejections

A.

35 U.S.C. §112, second paragraph

Claim 18 stands rejected under 35 U.S.C. §112, second paragraph, for allegedly being indefinite. More specifically, the Examiner states that the term "substantially", recited by claim 18, is a relative term that renders claims 18 indefinite. Applicants traverse this ground for rejection as follows. Applicants respectfully note that it should be quite clear from Applicants' disclosure as filed that "an area in which human activity is desired to be substantially nonexistent" is descriptive of an area in which humans are not usually supposed to be (e.g., perimeters of nuclear power facilities or near or in the water of a public water supply). While members of the public are not supposed to be in such places, for example, there may occasionally be authorized personal in such areas. There is no evidence on the record that such a simple concept would fail to apprise one of ordinary skill in the art of the scope of the claimed embodiment.

Applicants respectfully reiterate (from Applicants' previous responses) that the Examiner's ability to articulate clearly what the Examiner believes the scope of the claimed term to be is the epitome of definiteness. In this case, the Examiner was able to determine what the claim term meant with enough specificity to select and apply multiple references which the Examiner believes anticipate portions of the claimed limitations, including the term in question. That the Examiner might prefer a term that the Examiner deems more precise is not adequate grounds for rejection. See, MPEP §2173.02 ("Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire.").

At least for these reasons, the Examiner has simply and entirely failed to establish a prima facie case for indefiniteness, and the § 112, second paragraph ground for rejection of claim 18 should therefore be withdrawn.

Examiner's response:

The term 'substantially' is a relative term. Office Action stands.

7. In reference to the Applicant's argument:

B. 35 U.S.C. §103(a) - Dubats, Matsumoto, Abrams

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Claims 18 and 61 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Dubats in view of Matsumoto, in further view of Abrams. Applicants traverse this ground for rejection as follows.

1.

#### No Prima Facie Case of Obviousness

The Examiner has failed to show how every element of the claims is taught or suggested by the cited references and the Examiner has entirely failed to address or consider (much less resolve) any of the requisite factual inquiries as set forth in *Graham v. John Deere*. The Examiner has further failed to set forth a valid reason that would have led one of ordinary skill in the art to combine the cited references as suggested by the Examiner. At least for these reasons, as described in more detail hereinafter, the Examiner has failed to establish a *prima facie* case for obviousness.

a)

The reference fails to teach or suggest: requesting that each remote viewer of the plurality of remote viewers provide an indication of whether the image of the object matches a reference image of a particular object (claim 61)

Applicants respectfully assert that none of Dubats, Matsumoto, nor Abrams, alone or in combination~ teaches or suggests limitations of claim 61. For example, Dubats, Matsumoto, and Abrams fail to teach or suggest requesting that each remote viewer of the plurality of remote viewers provide an indication of whether the image of the object matches a reference image of a particular object.

The Examiner states that neither Dubats nor Matsumoto teach or suggest the above-quoted limitation. Office Action, pg. 7, lines 8-11. Applicants agree. The Examiner goes on, however, to rely upon Abrams to make up for this deficiency of Dubats and Matsumoto. Specifically, the Examiner states that "[i]t is inherent [in Abrams] that a user who provides surveillance would respond if the situation dictates." *Id.*, at pg. 8, lines 16-17.

Initially, Applicants respectfully note that even if the Examiner's allegation of inherency were taken as true (which Applicants do not believe it is), it is entirely inapplicable to Abrams. Abrams is not a reference that is descriptive of a system for surveillance. Instead, Abrams describes a "telepresence" system that is used for remote video conferencing. Nowhere does Abrams describe users providing surveillance services. It is entirely unclear, therefore, why Abrams would request remote viewers to match images to reference images - for any purpose.

Second, even if Abrams was a surveillance reference (which Applicants maintain

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is not the case), and even if the Examiner's allegation of inherency were true (which Applicants also maintain is not the case), the "inherent" teaching would not read on the above-quoted limitation. Even if users providing surveillance services could be expected to "respond" if needed, this is simply not descriptive of requesting that the users match images to reference images. Simply nowhere does Abrams describe such a feature.

Further, even if the alleged inherent teaching of Abrams was applicable to the above-quoted limitation, the allegation of inherency itself is flawed. Applicants note that while "express, implicit, and inherent disclosures of a prior art reference may be relied upon in the rejection of claims under 35 U.S.C. [sic] 102 or 103" (MPEP §2112), "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." *Id.* at IV; *In re R/ckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original); MPEP §2112, at IV.

In this case, where no surveillance system is described at all by Abrams, and at best a teleconferencing system is described, it does not necessarily flow that users would be expected to "respond" to surveillance situations as they occur (e.g., at least because Abrams does not contemplate them occurring).

Accordingly, at least because Dubats, Matsumoto, and Abrams fail to teach or suggest requesting that each remote viewer of the plurality of remote viewers provide an indication of whether the image of the object matches a reference image of a particular object, Dubats, Matsumoto, and Abrams fail to render obvious claim 61.

Applicants therefore respectfully request that this § 103(a) ground for rejection of claim 61 be withdrawn.

Examiner's response:

In claim 61, 'receiving' an indication matches a reference image of applicant is illustrated by the function of the object designation expert system' of Dubats. (**Dubats**, C9:19-46) 'Reference image ... as a static portion of the interface' of applicant is disclosed by 'split screen display for comparing a digitized film frame with a reference frame' of Capitant. (**Capitant**, 2:13-20)

8. In reference to the Applicant's argument:

b)

The reference fails to teach or suggest: receiving, from each remote viewer of the plurality of remote viewers, the indication of whether the image of the object matches the reference image of the particular object (claim 61)

Applicants respectfully assert that none of Dubats, Matsumoto, nor Abrams, alone or in combination~ teaches or suggests limitations of claim 61. For example, Dubats, Matsumoto, and Abrams fail to teach or suggest receiving, from each remote viewer of the plurality of remote viewers, the indication of whether the image of the object matches the reference image of the particular object.

The Examiner relies upon Dubats to show a teaching of the above-quoted limitation. The Examiner equates the above-quoted limitation to the portion of Dubats that describes a "confidence level". Office Action, pg. 9, lines 5-7. The "confidence level" of Dubats is descriptive of a computer program providing a level of probability that a computer result descriptive of an intruding object is accurate or not. Dubats, Col. 9, lines 26-46.

In other words, the Examiner equates a plurality of remote viewers (which are humans, as described in Applicants' specification) matching images to reference images, with a computer program that analyzes "energy projections" to "estimate[] approximate size, speed and direction characteristics of intruding object(s)." Dubats, Abstract. Applicants respectfully submit that these two concepts are simply not even similar, much less equivalent. The only similarity is that both concepts are related to surveillance. Each, however, is descriptive of an entirely different method of identifying security threats. Dubats does not even contemplate the necessity of any humans in detecting intrusion events, for example, because Dubats is directed to an entirely automated system utilizing "energy projections" to identify intrusions. The above-quoted limitation is instead descriptive of a plurality of remote viewers matching images to reference images. Dubats simply does not contemplate such a feature.

Nor do either of Matsumoto or Abrams make up for this deficiency of Dubats.

Accordingly, at least because Dubats, Matsumoto, and Abrams fail to teach or suggest receiving, from each remote viewer of the plurality of remote viewers, the indication of whether the image of the object matches the reference image of the particular object, Dubats, Matsumoto, and Abrams fail to render obvious claim 61.



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Applicants therefore respectfully request that this § 103(a) ground for rejection of claim 61 be withdrawn.

Examiner's response:

As stated in section 7 of the Office Action, 'receiving' an indication matches a reference image of applicant is illustrated by the function of the object designation expert system' of Dubats. (**Dubats**, C9:19-46) 'Reference image ... as a static portion of the interface' of applicant is disclosed by 'split screen display for comparing a digitized film frame with a reference frame' of Capitant. (**Capitant**, 2:13-20)

9. In reference to the Applicant's argument:

c)

The reference fails to teach or suggest: receiving a response to the image by the first user, in which the response is "one of" an indication that a human is present in the image, an indication that no human is present in the image, and an indication of uncertainty whether a human is present in the image (claim 18)

Applicants respectfully assert that none of Dubats, Matsumoto, nor Abrams, alone or in combination~ teaches or suggests limitations of claim 18. For example, Dubats, Matsumoto, and Abrams fail to teach or suggest receiving a response to the image by the first user, in which the response is one of" an indication that a human is present in the image, an indication that no human is present in the image, and an indication of uncertainty whether a human is present in the image.

The Examiner states that Dubats fails to teach or suggest the above-quoted limitation. Office Action, pg. 6, lines 6-9. Applicants agree. The Examiner goes on, however, to rely upon Matsumoto to make up for this deficiency of Dubats. Specifically, the Examiner alleges that Matsumoto describes receiving viewer responses comprising answers such as "yes", "no", and "maybe".

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Applicants do not disagree that Matsumoto describes receiving responses from cable TV viewers where the responses comprise short answers such as "yes", "no", and "maybe". This functionality of Matsumoto, however, simply does not read on the above-quoted limitation.

Matsumoto is entirely devoid of mention or reference to any sort of surveillance applications. While Dubats at least describes a surveillance system, although devoid of any teaching or suggestion of having people provide responses regarding whether humans are present in images, Matsumoto fails both to describe surveillance applications as well as asking people whether humans are present in images. Thus, while Matsumoto could indeed be used as evidence that the above-quoted limitation is enabled because Matsumoto shows one method via which responses from people may be received, there is simply no description in Matsumoto that reads on the above-quoted limitation.

Accordingly, at least because Dubats, Matsumoto, and Abrams fail to teach or suggest receiving a response to the image by the first user, in which the response is "one of" an indication that a human is present in the image, an indication that no human is present in the image, and an indication of uncertainty whether a human is present in the image, Dubats, Matsumoto, and Abrams fail to render obvious claim 18.

Applicants therefore respectfully request that this § 103(a) ground for rejection of claim 18 be withdrawn.

Examiner's response:

Matsumoto is used in combination with Dubats. The figure in Dubats indicates humans.

10. In reference to the Applicant's argument:

d)

The reference fails to teach or suggest: receiving responses to the image by the additional users (claim 18)

Applicants respectfully assert that none of Dubats, Matsumoto, nor Abrams, alone or in combination~ teaches or suggests limitations of claim 18. For

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example, Dubats, Matsumoto, and Abrams fail to teach or suggest receiving responses to the image by the additional users.

The Examiner relies upon Abrams to allegedly show a teaching of the above-quoted limitation. Specifically, the Examiner states that "[i]t is inherent [in Abrams] that a user who provides surveillance would respond if the situation dictates." Office Action, pg. 7, lines 9-11.

As described in Section II.B.1 .a herein, Abrams is not at all directed to security or surveillance applications. Nor does Abrams describe receiving responses related to images or remote locations. Thus, it simply does not necessarily flow that the viewers in Abrams would provide responses and it is therefore not an inherent teaching of Abrams.

Accordingly, at least because Dubats, Matsumoto, and Abrams fail to teach or suggest receiving responses to the image by the additional users, Dubats, Matsumoto, and Abrams fail to render obvious claim 18.

Applicants therefore respectfully request that this § 103(a) ground for rejection of claim 18 be withdrawn.

Examiner's response:

'Plurality of remote viewers' of applicant is disclosed by 'multiple user' of Abrams. (**Abrams**, ¶0014) Indicating a response is disclosed by Matsumoto in section 9 of the Office Action.

11. In reference to the Applicant's argument:

e)

The reference fails to teach or suggest: evaluating the received responses (claim 18)

Applicants respectfully assert that none of Dubats, Matsumoto, nor Abrams, alone or in combination: teaches or suggests limitations of claim 18. For example, Dubats, Matsumoto, and Abrams fail to teach or suggest evaluating the received responses.

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The Examiner relies upon Dubats to allegedly provide a teaching of the above-quoted limitation. Specifically, the Examiner equates the above-quoted limitation with the "expert system" of Dubats. Office Action, pg. 7, lines 19-20.

The Examiner, however, grossly misinterprets the above-quoted limitation and/or the cited reference. Claim 18 recites, for example, receiving indications, from a plurality of users (e.g., humans) regarding whether a human is present in an image. Dubats describes a computer analyzing "energy projections" at a remote site to estimate the size, speed, etc. of intruding objects. These are simply two entirely different ways of detecting security breaches. Dubats does not utilize humans at all to detect breaches (much less a plurality of humans), and instead teaches an entirely automated "expert system" (presumably to reduce the amount of manpower needed to effect a security solution).

Neither Matsumoto nor Abrams makes up for this deficiency of Dubats. Accordingly, at least because Dubats, Matsumoto, and Abrams fail to teach or suggest evaluating the received responses, Dubat, Matsumoto, and Abrams fail to render obvious claim 18.

Applicants therefore respectfully request that this § 103(a) ground for rejection of claim 18 be withdrawn.

Examiner's response:

'Evaluating the received responses' of applicant is achieved by the 'object designation expert system' of Dubats. (**Dubats**, C9:26-46)

12. In reference to the Applicant's argument:

f)

No Reason to Combine is Evident

Even if the cited references taught or suggested each limitation of claims 18 and 61 (which Applicants maintain is not the case), the Examiner has failed to establish a prima facie case for obviousness for either of claims 18 and 61, at least because the Examiner has provided no valid argument, much less evidence (much less substantial evidence) that there would have been some reason for

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someone of ordinary skill in the art to combine the cited references to read on the pending claims.

The only reasoning that the Examiner provides for combining the references is that it would have been obvious to combine the references "[f]or the purpose of avoiding the high error cost of a single user by using redundant users." Office Action, pg. 7, lines 15-16 and pg. 9, lines 1-2. Applicants respectfully note that none of the cited references describes utilizing a single user to detect security breaches (much less by comparing images to reference images, etc.). It is therefore entirely unclear how one of ordinary skill could have possibly been motivated or otherwise have been caused to (a) modify the references to utilize a user (instead of a computerized system like in Dubats), to detect breaches in security, or (b) then feel that one user would cause too many errors, and accordingly believe that paying more users would be more beneficial to reduce errors. Neither of these premises is supported by any evidence of record. Nor do either of these premises appear valid or reasonable.

Accordingly, at least because the Examiner has (i) failed to show how every limitation of claims 18 and 61 is taught or suggested, (ii) failed to provide a proper reason to combine the cited references, and (iii) failed to support any reason to combine by evidence on the record, the Examiner has failed to set forth a prima facie case for obviousness of claims 18 and 61.

Applicants therefore respectfully request that these § 103(a) rejections of claims 18 and 61 be withdrawn.

g)

#### No Factual Inquiries Resolved

Applicants respectfully note that the factual inquiry that must be resolved to establish a prima facie case of obviousness, as set forth in *Graham v. John Deere*, may be summarized as follows: (i) determine the scope and content of the prior art; (ii) ascertain the differences between the prior art and the claims at issue; (iii) resolve the level of ordinary skill in the pertinent art; (iv) and consider objective evidence (e.g., secondary considerations).

Applicants further respectfully note that the Examiner has provided no evidence in support of a prima facie case for obviousness, nor has the Examiner resolved any of the factual determinations required by *Graham v. John Deere*. Within such an evidentiary vacuum, the Examiner's unsupported conclusory statement that it would have been obvious to combine Dubats, Matsumoto, and Abrams to achieve the claimed embodiments, is entirely meaningless.

At least for these reasons, the Examiner has entirely failed to establish a prima

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facie case for obviousness, and the §103(a) ground for rejection of claims 18 and 61 should therefore be withdrawn.

Examiner's response:

The application is concerning remote monitoring. Dubats is titled 'remote patrol system.' Abrams also is connected to the subject with remote viewing of images over a computer network. Matsumoto is connected to television and is used only for indication abilities. Capitant is an old patent which discloses split screen output, with one being a reference image. All of these references fall within the domain of the application.

### ***Examination Considerations***

13. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has the full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

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14. Examiner's Notes are provided to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and sprit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but link to prior art that one of ordinary skill in the art would find inherently appropriate.

15. Examiner's Opinion: Paragraphs 13 and 14 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

### ***Conclusion***

16. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure.

-U. S. Patent Publication 20020159616: Ohta

-U. S. Patent 5576950: Tonomura

-U. S. Patent Publication 20020091991: Castro

17. Claims 18 and 61 are rejected.

***Correspondence Information***

18. Any inquiry concerning this information or related to the subject disclosure should be directed to the Examiner Peter Coughlan, whose telephone number is (571) 272-5990. The Examiner can be reached on Monday through Friday from 7:15 a.m. to 3:45 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor David Vincent can be reached at (571) 272-3080. Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks,  
Washington, D. C. 20231;

Hand delivered to:

Receptionist,  
Customer Service Window,  
Randolph Building,  
401 Dulany Street,  
Alexandria, Virginia 22313,

(located on the first floor of the south side of the Randolph Building);

or faxed to:

(571) 272-3150 (for formal communications intended for entry.)

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information



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/P. C./

Examiner, Art Unit 2129

Peter Coughlan

10/23/2008

/David R Vincent/

Supervisory Patent Examiner, Art Unit 2129